

Executive Summary – Enforcement Matter – Case No. 46740

City of Star Harbor

RN101392025

Docket No. 2013-0827-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Star Harbor PWS, 99 Sunset Boulevard, Star Harbor, Henderson County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 9, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$305

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$305

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 46740

City of Star Harbor

RN101392025

Docket No. 2013-0827-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 18, 2013

Date(s) of NOE(s): April 17, 2013

Violation Information

1. Failed to retain records of the Recycling Practices Report ("RPR") and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter [30 TEX. ADMIN. CODE § 290.46(f)(3)(C)(iii) and (f)(4)].
2. Failed to comply with the maximum contaminant level ("MCL") for total haloacetic acids ("HAA5") of 0.060 milligrams per liter based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days, submit the RPR;
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.;
- c. Within 365 days, return to compliance with the running annual average MCL for HAA5; and
- d. Within 380 days, submit written certification demonstrating compliance with Ordering Provision c.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 46740

City of Star Harbor

RN101392025

Docket No. 2013-0827-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Lisa Westbrook, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-1160; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Bobby Howell, Mayor, City of Star Harbor, P.O. Box
949, Malakoff, Texas 75148

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Apr-2013	PCW	10-May-2013	Screening	25-Apr-2013	EPA Due	30-Jun-2013
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RESPONDENT/FACILITY INFORMATION

Respondent	City of Star Harbor		
Reg. Ent. Ref. No.	RN101392025		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46740	No. of Violations	1
Docket No.	2013-0827-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lisa Arneson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	22.0% Enhancement	Subtotals 2, 3, & 7	\$22
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Notes: Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one agreed order with a denial of liability. Reduction for High Performer Classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts

\$5

Approx. Cost of Compliance

\$45

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$122
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$122
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$122
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$122
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Screening Date 25-Apr-2013

Docket No. 2013-0827-PWS-E

PCW

Respondent City of Star Harbor

Policy Revision 2 (September 2002)

Case ID No. 46740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101392025

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Arneson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 32%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one agreed order with a denial of liability. Reduction for High Performer Classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 25-Apr-2013
Respondent City of Star Harbor
Case ID No. 46740
Reg. Ent. Reference No. RN101392025
Media [Statute] Public Water Supply
Enf. Coordinator Lisa Arneson

Docket No. 2013-0827-PWS-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 290.46(f)(3)(C)(iii) and (f)(4)

Violation Description

Failed to retain records of the Recycling Practices Report ("RPR") and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter. Specifically, in a letter dated April 6, 2011 an updated RPR was requested within 90 days, but was not submitted.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

116 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$122

This violation Final Assessed Penalty (adjusted for limits) \$122

Economic Benefit Worksheet

Respondent City of Star Harbor
 Case ID No. 46740
 Reg. Ent. Reference No. RN101392025
 Media Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	5-Jul-2011	30-Nov-2013	2.41	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare an updated RPR and submit it to the Executive Director, calculated from the date the report was due to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

TOTAL

\$5



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	22-Apr-2013	Screening	25-Apr-2013	EPA Due	30-Jun-2013
	PCW	10-May-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Star Harbor		
Reg. Ent. Ref. No.	RN101392025		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46740	No. of Violations	1
Docket No.	2013-0827-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lisa Arneson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$150**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **22.0%** Enhancement **Subtotals 2, 3, & 7** **\$33**

Notes: Enhancement for two NOV's with same/similar violations, one NOV with dissimilar violations, and one agreed order with a denial of liability. Reduction for High Performer Classification.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$670
Approx. Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$183**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$183**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$183**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$183**

Screening Date 25-Apr-2013

Docket No. 2013-0827-PWS-E

PCW

Respondent City of Star Harbor

Policy Revision 3 (September 2011)

Case ID No. 46740

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392025

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Arneson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 32%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one agreed order with a denial of liability. Reduction for High Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 22%

Screening Date 25-Apr-2013

Docket No. 2013-0827-PWS-E

PCW

Respondent City of Star Harbor

Policy Revision 3 (September 2011)

Case ID No. 46740

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392025

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Arneson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for total haloacetic acids ("HAA5"), based on the running annual average. Specifically, the running annual average concentrations of HAA5 for the fourth quarter of 2012 and the first quarter of 2013 were 0.062 mg/L and 0.061 mg/L respectively.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for HAA5 has exposed persons served by the Facility to significant amounts of contaminants that do not exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

182 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$670

Violation Final Penalty Total \$183

This violation Final Assessed Penalty (adjusted for limits) \$183

Economic Benefit Worksheet

Respondent City of Star Harbor
Case ID No. 46740
Reg. Ent. Reference No. RN101392025
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	31-Dec-2012	30-Nov-2014	1.92	\$32	\$638	\$670
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement an alternative form of disinfection, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$670

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600631246, RN101392025, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600631246, City of Star Harbor **Classification:** HIGH **Rating:** 0.06

Regulated Entity: RN101392025, CITY OF STAR HARBOR **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 99 SUNSET BOULEVARD, STAR HARBOR, HENDERSON COUNTY, TEXAS

TCEQ Region: REGION 05 - TYLER

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1070150 **WATER LICENSING LICENSE** 1070150

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: April 25, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 25, 2008 to April 25, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Lisa Arneson **Phone:** (512) 239-1160

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 08/27/2011 ADMINORDER 2011-0562-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2010.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2010.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | | | |
|---|--------------|---|-----------------|----------|
| 1 | Date: | 11/07/2012 (1041565) | CN600631246 | |
| | Self Report? | NO | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.111(e)(5)(C)(i) | | |
| | Description: | Failure to accurately determine turbidity readings. | | |
| | Self Report? | NO | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.111(e)(5)(A) | | |
| | Description: | Failure to calibrate the on-line turbidimeter correctly. | | |
| 2 | Date: | 01/07/2013 (1077633) | CN600631246 | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(5) | | |
| | Description: | HAA5 RAA MCL 4Q2012 - The system violated the maximum contaminant level for haloacetic acids during the 4th quarter of 2012 with a RAA of 0.062 mg/L. | | |
| 3 | Date: | 02/27/2013 (1077633) | CN600631246 | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(5) | | |
| | Description: | HAA5 RAA MCL 1Q2013 - The system violated the maximum contaminant level for haloacetic acids during the 1st quarter of 2013 with a RAA of 0.061mg/L. | | |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF STAR HARBOR
RN101392025**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0827-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Star Harbor (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 99 Sunset Boulevard in Star Harbor, Henderson County, Texas (the "Facility") that has approximately 319 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on March 18, 2013, TCEQ staff documented that in a letter dated April 6, 2011 an updated Recycling Practices Report ("RPR") was requested within 90 days, but was not submitted.
3. During a record review conducted on March 18, 2013, TCEQ staff documented that the running annual average concentrations for total haloacetic acids ("HAA5") were 0.062 milligrams per liter ("mg/L") for the fourth quarter of 2012 and 0.061 mg/L for the first quarter of 2013.
4. The Respondent received notice of the violations on April 24, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to retain records of the RPR and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(C)(iii) and (f)(4).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the maximum contaminant level ("MCL") for HAA5 of 0.060 mg/L based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Three Hundred Five Dollars (\$305) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Three Hundred Five Dollar (\$305) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Hundred Five Dollars (\$305) as set forth in Section II, Paragraph 5 above, for violations of TCEQ

rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Star Harbor, Docket No. 2013-0827-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit the RPR, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.;
 - c. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - d. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Water Supply Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Penn Dawkins
For the Executive Director

9/17/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Star Harbor. I am authorized to agree to the attached Agreed Order on behalf of the City of Star Harbor, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Star Harbor waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Bobby Howell
Signature

5/1/13
Date

Bobby Howell
Name (Printed or typed)
Authorized Representative of
City of Star Harbor

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.